

REMARKS / ARGUMENTS

This amendment is submitted in full response to the outstanding Office Action dated October 3, 2003, wherein original claims 1-41 stand rejected under 35 USC 102(b), as being anticipated by the reference to Chmielewski, Jr. et al. (U.S. Patent No. 6,005,704). For the reasons set forth in greater detail hereinafter these rejections are traversed. Applicant wishes to thank the Examiner for her detailed and conscientious review of the single reference of record and the structural and operative features contained therein as they allegedly relate to Applicant's claimed invention.

Before reviewing the substantive issues of the Examiner's basis for rejecting all of the claims 1-41 under 35 USC 102, the Applicant respectfully points out the well-established requirement that:

For a prior art reference to anticipate in terms of 35 U.S.C. §102, **every** element of the claimed invention must be **identically** shown in a single reference.

Diversitech Corp. v. Century Steps, Inc., 7 USPQ2d 1315, 1317 (Fed. Cir. 1988) (emphasis added).

Moreover, this burden on the U.S. Patent and Trademark Office is further compounded by the fact that the Federal Circuit has stated that within the single reference:

[t]he identical invention must be shown in as complete detail as is contained in the patent claim. Richardson v. Suzuki Motor Co. Ltd., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

More recently, the Federal Circuit has further expanded this principle to include that:

An anticipating reference must describe the patented subject matter with sufficient clarity and detail to establish that the subject matter existed in the prior art and that such existence would be recognized by persons of ordinary skill in the field of the invention. Crown Operations Int'l, Ltd. v. Solutia Inc., 289 F.3d 1367, 62 USPQ2d 1917, 1921 (Fed. Cir. 2002).

Accordingly, if Applicant can establish that at least one claimed element is not present or is not identically disclosed in complete detail in the prior art reference put forth by the Examiner, the grounds for rejection pursuant to 35 USC §102 of each claim comprising that element has been overcome. Furthermore, once the grounds for rejection under 35 USC §102 have been overcome, the Examiner cannot merely turn to 35 USC 103 as the basis for maintaining a rejection without first meeting the requisite burden of establishing a *prima facie* case of obviousness.

Review of Applicant's Claimed Invention in Light of Chmielewski, Jr. et al.

After a detailed review of the subject application and the content of the single reference of record, it is abundantly apparent that Applicant's invention is structured to serve a different function from that of Chmielewski, Jr. et al. More specifically, Applicant's claimed invention comprises an assembly which records the visual image of a person completing a transaction or entering a facility, and further records the visual image of one or more executed monetary instrument, transportation ticket or

other relevant documentation presented by the individual being viewed. In contrast, Chmielewski, Jr. et al. is directed to a system which functions to biometrically identify an individual through an analysis and comparison of the individual's iris with an iris image maintained on file or otherwise stored. As stated throughout the reference of record, the environment in which the cable-driven image steering and focusing device is utilized is preferably with an ATM or like machine. As such, a plurality of cameras view outwardly through a cover plate of the ATM machine so as to focus on an individual's face and eventually more specifically on the individual's eye.

More specifically, Chmielewski, Jr. et al. includes a single narrow field of view (NFOV) camera 48 and two wide field of view (WFOV) cameras 50 which are cooperatively structured and operative to obtain the aforementioned iris identification. In so doing, it is clear that the NFOV camera 48 as well as both of the WFOV cameras 50 are disposed and structured to view a single object (the face of the user), through a cover plate, wherein the user is obviously located on the exterior of the ATM machine. It is also noted that the two WFOV cameras 50 primarily function to facilitate the focusing of the NFOV camera 48, so as to allow it to accurately view and/or record the iris of the individual for identification purposes. The Examiner's attention is drawn to column 7, lines 22-36 as well as page 7 of the Examiner's Office Action.

Further, while the Examiner sets forth, almost verbatim,

copious portions of the Chmielewski, Jr. et al. patent, relatively few specific instances are provided where the disclosure of this reference anticipates Applicant's claimed and specifically recited structural features. The Examiner does indicate that Chmielewski, Jr. et al. teaches a photo-identification collection assembly comprising a base 30 having a stage defined by a rotatable platform 31 including a pan/tilt mirror 34. The Examiner further contends that a support member engages the base 30 and is defined by arms 32 and 33 of the applied reference. The Examiner further contends that the first, second and third image collectors, as recited by Applicant are respectively anticipated by the aforementioned NFOV camera 48 and the two WFOV cameras 50.

Turning now to Applicant's invention, independent claims 1, 27 and 41 have been amended to more specifically define the structural features of Applicant's invention in a manner which is distinguishable from the system and structure as disclosed in the Chmielewski, Jr. et al. reference of record. More specifically and as indicated above, Chmielewski, Jr. et al. directs the cameras outwardly from the base 30 and the rotatable stage or platform 31 in order to focus on a single object of the user's face. The user's face is obviously located exteriorly of the ATM machine or other device on which the Chmielewski, Jr. et al. assembly is mounted. As such, Chmielewski, Jr. et al. specifically teaches away from a first and second image collector mounted on a support member and including respective first and second lenses which are

specifically disposed and structured to view objects which are positioned or supported on Applicant's **stage**.

In more direct terms, the claims appearing in the subject application now call for first and second objects to be viewed, being respectively disposed on a primary alignment indicator and a secondary alignment indicator. In even more specific terms, the primary and secondary alignment indicators are defined by primary and secondary stage areas structured to receive the aforementioned first and second objects to be viewed. Accordingly, at least a first and/or a second object to be viewed are mounted on the stage rather than outwardly therefrom as with the Chmielewski, Jr. et al. reference. Moreover, the first and second image collectors and their respective lenses are associated with the support member to accomplish viewing of the corresponding objects while these objects are on the stage. Applicant further defines a third image collector also mounted on the support member and disposed and structured to view a different object (an individual) which of course is not located on the stage. The above-noted structural differences between Applicant's claimed invention and the disclosure presented by the Chmielewski, Jr. et al. reference is further emphasized by the fact that these two inventions are operatively structured to perform different functions, as previously emphasized.

Therefore, Applicant respectfully contends that the Examiner has not established an adequate basis for supporting a rejection under 35 USC §102, in that every element of Applicant's claimed

invention is **not** identically shown in the single reference of record on which the Examiner relies. Further, the claims now defining Applicant's invention, by virtue of this amendment, are not identically shown in as complete detail as is contained in Applicant's claims.

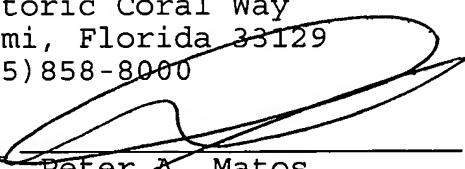
Based on the above, the Examiner is respectfully requested to reconsider her position in light of the claims now present in the subject application and the distinguishing features defined thereby, as noted in detail above and favorable action is respectively requested.

In addition, a request for an appropriate extension of time is enclosed herewith along with the corresponding PTO fee. In the event that any additional fee may be required by the filing of this paper, the Commissioner is hereby authorized to charge any fees and/or credits to our **Deposit Account No. 13-1227**.

Respectfully Submitted,

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